

Doug Ellis

From: Vicki Rippie
Sent: Thursday, August 10, 2006 1:54 PM
To: Stefan
Cc: Doug Ellis
Subject: RE: Legal Interpretation Request

From: Vicki Rippie
To: Stefan
Sent: Wednesday, August 02, 2006 10:00 AM
Subject: RE: Legal Interpretation Request

Dear Mr. Dobratz:

The Public Disclosure Commission does not have the authority to determine whether the provisions of RCW 42.17, the Public Disclosure and Fair Campaign Practices Act, are constitutional. The Commission's job is to implement the express language of the law consistent with its intent. Only a court can declare a statute unconstitutional. Private legal counsel could offer you advice on whether a law or a proposed amendment appears to be constitutional, but neither the Commission nor I have such authority.

Nevertheless, you may be interested to know that RCW 42.17.640(12) does include language prohibiting campaign contributions to state office candidates from certain sources. Section .640(12) says:

Notwithstanding the other subsections of this section, no corporation or business entity not doing business in Washington state, no labor union with fewer than ten members who reside in Washington state, and no political committee that has not received contributions of ten dollars or more from at least ten persons registered to vote in Washington state during the preceding one hundred eighty days may make contributions reportable under this chapter to a candidate, to a state official against whom recall charges have been filed, or to a political committee having the expectation of making expenditures in support of the recall of the official. This subsection does not apply to loans made in the ordinary course of business.

By rule, the Commission has clarified what is meant by "doing business in Washington." According to WAC 390-17-310, a corporation or business entity is "doing business in Washington state" if it conducts continuous or substantial activities in Washington state of such character as to give rise to a legal obligation.

In determining whether a corporation or business entity is doing business in Washington state, the commission will take into consideration the following nonexclusive list of indicators:

- Purposefully availing itself of the privilege of conducting business in the state by invoking both benefits and protections of state law.
- Appointing an agent for service of process in Washington state.
- Registering as a corporation in Washington.
- Operating business locations in Washington.
- Hiring employees to work in Washington.
- Purchasing or selling goods or services in Washington.
- Operating an interactive internet web site for the purpose of conducting business.

Thank you for your inquiry. I hope this information is useful. If you believe that the law requires amendment by the Legislature, you may want to discuss the matter with your elected representatives.

Sincerely,

Vicki Rippie
PDC Executive Director